APHC010578412026

**IN THE HIGH COURT OF ANDHRA PRADESH**
**AT AMARAVATI** **[3521]**
**(Special Original Jurisdiction)**

WEDNESDAY, THE 11th DAY OF NOVEMBER 2026

**PRESENT**

**THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO**

**CRIMINAL PETITION NO: 9711/2026**

**Between:**

1. PADAMALA RAHUL YADAV, S/O.LATE P.V. NARASIMHULU,AGED ABOUT 30 YEARS, OCC TTD EMPLOYEE,R/O.D.NO.20-2-507/E3, MARUTHI NAGAR,KORLAGUNTA, TIRUPATI TOWN AND DISTRICT.

**...PETITIONER/ACCUSED No.3**

**AND**

1. THE STATE OF ANDHRA PRADESH, ,REP. BY ITS PUBLIC PROSECUTOR,HIGH COURT OF ANDHRA PRADESH, AT AMARAVATI,THROUGH S.H.O. OF RENIGUNTA URBAN POLICE STATION.

**...RESPONDENT/COMPLAINANT**

**Counsel for the Petitioner/accused:**

1. HARINADH NIDAMANURI

**Counsel for the Respondent/complainant:**

1. PUBLIC PROSECUTOR

**The Court made the following:**

**ORDER:**

Criminal Petition has been filed under Sections 480 and 483 of the Bharatiya Nagarik Surak sha Sanhita, 2023 (for brevity 'the BNSS'), seeking to enlarge the Petitioner/Accused No.3 on bail in Cr.No.126 of 2026 on the file of Renigunta Urban Police Station, Tirupathi District, registered for the alleged offences punishable under Sections 8(c) read with 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity, 'the NDPS Act').

2. The case of the prosecution, in brief, is that on 09.07.2026 at about 7:00 PM, acting on credible information regarding the sale of MDMA (Methamphetamine), the Inspector of Police, Renigunta Urban Police Station, secured mediators and conducted a raid at the car parking area near Renigunta Railway Station. During the operation, Accused Nos.1 & 2 and Petitioner/Accused No.3 were apprehended and found in possession of a total of 62 grams of MDMA, comprising 36 grams from Accused No.1, 15 grams from Accused No.2, and 11 grams from Accused No.3, packed separately. The police also seized four mobile phones, two motorcycles, and two digital weighing machines from their possession. During interrogation, the accused allegedly confessed that Accused Nos.1 & 2 had purchased the contraband from Accused No.4 at Bengaluru and later divided it among themselves after returning to Tirupati. Thereafter, they, along with the Petitioner, proceeded to Renigunta on two motorcycles with the intention of selling the narcotic substance in small packets to customers. Before the sale could take place,

they were apprehended by the police and the contraband was seized under a duly attested mahazar. Based on the seizure and investigation, Crime was registered for offences punishable under Sections 8(c) read with 22(c) and 29 of 'the NDPS Act', and the Petitioner was arrested on 09.07.2026 and has remained in judicial custody since then.

3. Heard Sri Mastan Naidu Cherukuri, learned Senior Counsel, appearing on behalf of Sri Harinadh Nidamanuri, learned counsel for the Petitioner and learned Assistant Public Prosecutor. Perused the record.

4. Sri Mastan Naidu Cherukuri, learned Senior Counsel submits that the Petitioner is innocent and has been falsely implicated in the crime. It is submitted that the Petitioner, aged about 30 years, is a law-abiding citizen working as a Junior Assistant in TTD on compassionate grounds and has no criminal antecedents. It is further submitted that, as per the panchanama, the quantity allegedly seized from the Petitioner is shown as "approximately 11 grams" of MDMA, which raises serious doubt regarding the exact quantity seized and whether it falls within the category of commercial quantity or otherwise. The Investigating Agency failed to adhere to the procedure prescribed under law while effecting the seizure and collecting evidence, and that the mandatory requirements under Sections 51, 52A and 53 of 'the NDPS Act' have not been complied with.

5. Learned Senior Counsel further submits that the inventory of the seized contraband has not been produced before the learned jurisdictional Magistrate even after a lapse of four months from the date of seizure, thereby creating

serious doubts as to the genuineness of the alleged recovery. It is also submitted that the investigation is substantially completed and that the continued detention of the Petitioner is unwarranted. The Petitioner undertakes to abide by any conditions that may be imposed by this Court while enlarging him on bail. Hence, it is urged to allow the Criminal Petition.

6. *Per contra,* Mr. A. Sai Rohith, learned Assistant Public Prosecutor, vehemently opposed the grant of bail to the Petitioner, submitting that the investigation is still in progress and that several material witnesses are yet to be examined. It is contended that the accused were apprehended while allegedly preparing to sell the contraband to prospective customers and that the seizure was effected in the presence of mediators and duly documented under a mahazar. According to the prosecution, the voluntary statements of the accused disclose the source and manner of procurement of the narcotic substance, thereby establishing a *prima facie* case of illegal possession and trafficking of narcotic drugs.

7. Learned Assistant Public Prosecutor further submits that the contraband seized from all the accused cumulatively weighs 62 grams of MDMA, which falls within the category of commercial quantity and, therefore, attracts the rigours of Section 37 of ‘the NDPS Act’. The mandatory provisions of ‘the NDPS Act’ have been substantially complied with and that the alleged procedural irregularities raised by the defence are matters to be tested in the course of trial. If the Petitioner is enlarged on bail at this stage, there is a strong likelihood of his absconding, thereby hampering the ongoing

investigation and evading the process of law. Hence, it is urged that the Criminal Petition be dismissed.

8. Thoughtful consideration has been bestowed on the arguments advanced by the learned Counsel for both sides. I have perused the entire record.

9. Now, the point for consideration is:

*"Whether the Petitioner/Accused No.3 is entitled to grant of bail?"*

10. As seen from the record, the Petitioner was arrested on 09.07.2026 and has been in the judicial custody for the past 125 days. The allegation against the Petitioner is that he was apprehended at the spot along with Accused Nos.1 and 2 while proceeding on two motorcycles for the purpose of selling MDMA to prospective customers. The contraband allegedly recovered was 36 grams from Accused No.1, 15 grams from Accused No.2 and 11 grams from the Petitioner, aggregating to 62 grams of MDMA which falls within the category of commercial quantity.

11. Learned Senior Counsel contends that the mandatory procedure prescribed under Section 52-A of 'the NDPS Act' has not been complied with. Even after four months from the date of seizure, the inventory was not produced before the learned jurisdictional Magistrate. It is further contended that the quantity allegedly recovered from the petitioner is described as 'approximately 11 grams', creating doubt as to the exact quantity allegedly seized.

12. In this regard, learned Senior Counsel relied upon the judgment of the Hon'ble Apex Court in **Mohammed Khalid v. State of Telangana**[1] at paragraph No.26, it is held as under:

> *"26. Admittedly, no proceedings under Section 52-A of the NDPS Act were undertaken by the Investigating Officer PW-5 for preparing an inventory and obtaining samples in presence of the jurisdictional Magistrate. In this view of the matter, the FSL report(Exhibit P-11) is nothing but a waste paper and cannot be read in evidence. The accused A-3 and A-4 were not arrested at the spot."*

13. In **Mohammed Khalid** *supra,* the Hon'ble Supreme Court observed that where the Investigating Officer fails to comply with the mandatory procedure prescribed under Section 52-A of 'the NDPS Act' relating to preparation of inventory and drawing of samples before the learned jurisdictional Magistrate, the evidentiary value of the FSL report stands seriously affected and the prosecution may fail to establish the recovery of contraband in accordance with law.

14. Learned Senior Counsel further relied upon another judgment of the Hon'ble Apex Court in **Yusuf @ Asif v. State**[2], at paragraph Nos.11 & 12, it is held as under:

> *"11. A simple reading of the aforesaid provisions, as also stated earlier, reveals that when any contraband/narcotic substance is seized and forwarded to the police or to the officer so mentioned under Section 53, the officer so referred to in sub-section (1) shall prepare its inventory with details and the description of the seized substance like quality, quantity, mode of packing, numbering and identifying marks and then make an application to any Magistrate for the purposes of certifying its correctness and for allowing to draw representative samples of such substances in the presence of the Magistrate and to certify the correctness of the list of samples so drawn.*
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> *12. Notwithstanding the defence set up from the side of the respondent in the instant case, no evidence has been brought on record to the effect that the procedure prescribed under sub-sections (2), (3) and (4) of Section 52-A of the NDPS Act was followed while making the seizure and drawing sample such as preparing the inventory and getting it certified by the Magistrate. No evidence has also been brought on record that the samples were drawn in the*

[1] (2024) 5 SCC 393
[2] (2024) 14 SCC 217

*presence of the Magistrate and the list of the samples so drawn were certified by the Magistrate. The mere fact that the samples were drawn in the presence of a gazetted officer is not sufficient compliance of the mandate of sub-section (2) of Section 52-A of the NDPS Act."*

15. In **Yusuf @ Asif** *supra,* the Hon'ble Supreme Court held that Section 52-A of 'the NDPS Act' mandates preparation of an inventory of the seized contraband and drawing of representative samples in the presence of a Magistrate, followed by certification thereof. It was further held that failure to comply with the requirements under Section 52-A, including certification of the inventory and samples by the learned Magistrate, vitiates the sampling process and that mere drawing of samples in the presence of a Gazetted Officer does not amount to compliance with the statutory mandate.

16. Further, learned Senior Counsel also relied upon the judgment of the High Court of Bombay in **Caitan Fernandes v. State of Goa**[3], at paragraph Nos.11 & 12, it is held as under:

*"8. I have carefully considered the circumstances and the submissions made. As noticed earlier, the commercial quantity of MDMA as per Entry No. 134, is 10 grams and above, while the small quantity is upto 0.5 grams. Thus, anything in excess of 0.5 grams and lesser than 10 grams, would be a variable/intermediate quantity, which is governed by section 22(b) of the Act. A perusal of the evidence of PW-2, Shri K. M. Varshney clearly shows that the Chemical Analyser had stated about the weight of Exhibit-I with polythene cover as 15.5393 grams. This aspect is also clear from the report of the Chemical Analyser at Exhibit-C/38, wherein the weight of the quantity with polythene cover is shown as 15.5393 grams. There is nothing to show that at any point of time, the weight of the contraband, without the polythene cover was ascertained. It is evident that the weight of the polythene cover cannot be taken into consideration, while ascertaining the weight of the contraband to see whether, it is a case of possession of commercial quantity of contraband or not. It has also come in the evidence of PW-2, Shri K. M. Varshney that he has not carried out any quantitative analysis for MDMA. In such circumstances, the learned Counsel for the appellant appears to be right in contending that the appellant cannot be held guilty of having found in possession of commercial quantity of MDMA. However, the fact remains that according to PW-2, Shri K. M. Varshney the powder tested positive for MDMA. There is no evidence on record to show the weight of the polythene cover or to ascertain the weight of the powder."*

[3] 2018 2 AIR(Bom)(R)(Cri) 548

17. In **Caitan Fernandes** *supra*, it was held that, while determining whether the seized substance constitutes a commercial quantity, the weight of the packing material cannot be included. The Court further observed that in the absence of evidence regarding the actual weight of the contraband excluding the packing material and in the absence of quantitative analysis, an accused cannot be held to be in possession of a commercial quantity of MDMA merely on the basis of the gross weight.

18. Learned Assistant Public Prosecutor relied upon the judgment of the Hon'ble Supreme Court in **Narcotics Control Bureau v. Kashif**[4], wherein it was held that non-compliance or delayed compliance with Section 52-A of 'the NDPS Act', by itself, would not vitiate the prosecution case nor automatically entitle an accused to be released on bail. The effect of such alleged non-compliance is a matter to be examined on the basis of evidence in the course of trial.

19. At this stage, this Court is not required to undertake a detailed examination of the rival contentions regarding compliance with Section 52-A of 'the NDPS Act'. Whether there has been strict compliance of the said provision and the effect of any alleged procedural irregularity are matters that will have to be examined in the course of trial on the basis of evidence.

20. The material available on record *prima f*acie discloses that the Petitioner was apprehended at the spot along with the co-accused and was found in possession of a portion of the seized contraband. The prosecution

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[4] 2024 (11) SCC 372

case further alleges concerted possession and intended sale of the narcotic substance. The aggregate quantity of MDMA seized from all the accused is 62 grams, which falls within the category of commercial quantity, thereby attracting the rigours of Section 37 of 'the NDPS Act'. The investigation is at a progressive stage.

21. In this connection, it is relevant to refer the following decisions of the Hon'ble Apex Court. In **Union of India v. Ram Samujh**[5] the Hon'ble Supreme Court at Paragraph No.7 held as under*:*

> *"In murder cases the harm is limited to one or two individuals, whereas narcotics offences destroy numerous vulnerable lives and have a deadly impact on society; offenders involved in drug trafficking pose a continuous hazard and are likely to persist in their illicit activities if released, and therefore strict adherence to the legislative mandate is essential."*

22. In **Durand Didier v. State (UT of Goa)**[6] the Hon'ble Apex Court at Paragraph No.24 held as under:

> *"The organised underworld activities and clandestine trafficking of narcotic drugs have caused widespread addiction, especially among adolescents and students, turning the menace into a serious and alarming social problem. To combat this devastating threat with its deadly impact on society, Parliament recognised the need for strong measures. Consequently, it enacted Act 81 of 1985, introducing strict provisions with mandatory minimum imprisonment and fines."*

23. The Hon'ble Apex Court in **State of Kerala v. Rajesh**[7] at Paragraph Nos.8, 19, 20 and 21 held as under:

> *8. To curb the spread of dangerous drugs, Parliament has mandated that an accused under the NDPS Act cannot be granted bail unless there are reasonable grounds to believe he is not guilty and will not commit offences while on bail. The High Court failed to justify ignoring these mandatory conditions when releasing the accused. Instead of considering the grave socio-economic and health consequences of illegal drug trafficking, the court ought to have enforced the law in the spirit intended by Parliament.*
> *19. Section 37 imposes additional, overriding restrictions on the grant of bail, beyond those under Section 439 CrPC, through its non obstante clause. It prohibits bail unless two mandatory conditions are met: the prosecution is given an opportunity to oppose, and the court is satisfied*

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[5] *(1999) 9 SCC 429*
[6] *(1990) 1 SCC 95*
[7] *(2020) 12 SCC 122*

*that there are reasonable grounds to believe the accused is not guilty. If either condition is not fulfilled, the bar against granting bail applies.*
*20.The term "reasonable grounds" requires more than mere prima facie satisfaction; it demands substantial, probable causes showing the accused is not guilty. Such belief must arise from facts and circumstances sufficient to justify that conclusion. In the present case, the High Court overlooked the strict object of Section 37, and its liberal approach to bail under the NDPS Act was unwarranted.*
*21.The learned Single Judge failed to record the mandatory finding required under Section 37 of the NDPS Act, which is a sine qua non for granting bail in such cases.*

24. In view of the law laid down by the Hon'ble Apex Court in **Ram Samujh, Durand Didier** and **Rajesh** *supra*, the request of the Petitioner/Accused No.3 cannot be considered at this juncture inasmuch as there are no reasonable grounds to believe that the Petitioner has not indulged in the commission of the alleged offence or that he would refrain from committing offences in future if he is released on bail. There are no merits in this case for grant of bail to the Petitioner. Hence, this Criminal Petition is liable to be dismissed.

25. In the result, the Criminal Petition is dismissed.

As a sequel, Miscellaneous petitions, if any pending, shall stand closed.

**DR. Y. LAKSHMANA RAO, J**

Date: 11.11.2026
PRA

**THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO**

**CRIMINAL PETITION NO: 9711 of 2026**

Date: 11.11.2026
PRA